IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9060 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANISHKUMAR JAYANTILAL SHAH

Versus

DY COLLECTOR

Appearance:
MR MP PRAJAPATI for Petitioner
MR BH BHAGAT for MR HM BHAGAT for Respondent Nos.1 & 2
MR AJ DESAI, ld. AGP for Respondent No.3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 30/03/2000

ORAL JUDGEMENT

The facts of this case are identical to the cases Nos.8036/99 to 8044/99, 8190/99, 8191/99 and 8289/99 which have been decided and dismissed today by a common judgment and order and therefore, this case may meet the same fate. However, learned Counsel for the petitioner has made an additional argument in this case that the petitioner was not granted any opportunity and the impugned order requiring the petitioner to pay the stamp duty as per the price fetched by the Municipality in the public auction was passed without any notice to him and

therefore, the impugned order in the present case should be set aside on this ground alone, i.e. the ground of violation of principles of natural justice. The facts in the case are not in dispute. Once the impugned orders have not been interfered with by this Court and the petitions have been dismissed and the Rule has been discharged, I find that no useful purpose can be served by remanding the matter only on the ground that no notice or opportunity was given. Remanding of the matter in the present case on the ground of violation of principles of natural justice and denial of reasonable opportunity would only mean an empty formality and exercise in futility as it has been held that stamp duty has to be paid at the actual price fetched in the auction held by the local body and not at the upset price. The common judgment and order in these cases has been passed on the basis of the consideration of all the relevant provisions of law and after hearing the similarly situated petitioners, the petitions have been dismissed. It may also be mentioned that virtually the learned Counsel for the petitioner in this case was heard along with the petitioners in the other group of matters which have been decided by the common judgment and order and the order has also been dictated in his presence. Therefore, this petition also deserves to be dismissed in terms of that common judgment and order for the reasons stated and the adjudication made therein. Accordingly, this Special Civil Application is also dismissed. The Rule is hereby discharged. The interim order ceases to be operative. No order as to costs.

(M.R. Calla, J.)

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